



## 99TH GENERAL ASSEMBLY

### State of Illinois

### 2015 and 2016

### HB3910

by Rep. David Reis

#### SYNOPSIS AS INTRODUCED:

215 ILCS 155/12	from Ch. 73, par. 1412
215 ILCS 155/14	from Ch. 73, par. 1414
215 ILCS 155/16	from Ch. 73, par. 1416

Amends the Title Insurance Act. Provides that the Secretary of Financial and Professional Regulation or his authorized agents shall, from time to time, conduct visits of registered agents to ensure compliance with the Act and verify that proper internal controls are being maintained. Removes language providing that: (i) upon a showing of good cause, the Secretary or his authorized agent has the authority and power to require any title insurance company to take all legal means to obtain the appropriate records of its registered agents and make them available for examination at a time and place designated by the Secretary and (ii) expenses incurred in the course of such examinations will be the responsibility of the title insurance company. Requires that each title insurance company shall remit (rather than pay), for all of its title insurance agents subject to this Act for filing an annual registration of its agents, an amount collected from the consumer (was, an amount) equal to \$3 for each policy issued by all of its agents in the immediately preceding calendar year. Provides that each application for registration as a title insurance agent shall be made on a form specified by the Secretary and prepared by (rather than prepared in duplicate by) each title insurance company which the agent represents. Requires the title insurance company to retain the copy of the application and forward a copy (rather than the original) to the Secretary. Makes other changes.

LRB099 07073 MLM 27157 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Title Insurance Act is amended by changing  
5 Section 12, 14, and 16 as follows:

6 (215 ILCS 155/12) (from Ch. 73, par. 1412)

7 Sec. 12. Examinations; compliance.

8 (a) The Secretary or his authorized representative shall  
9 have the power and authority, and it shall be his duty, to  
10 cause to be visited and examined annually any title insurance  
11 company doing business under this Act, and to verify and compel  
12 compliance with the provisions of law governing it.

13 (b) The Secretary or his authorized agent shall have power  
14 and authority to compel compliance with the provisions of this  
15 Act and shall, from time to time, conduct visits of registered  
16 agents to ensure compliance with the Act and verify that proper  
17 internal controls are being maintained. ~~only upon the showing~~  
18 ~~of good cause, require any title insurance company to take all~~  
19 ~~legal means to obtain the appropriate records of its registered~~  
20 ~~agents and make them available for examination at a time and~~  
21 ~~place designated by the Secretary. Expenses incurred in the~~  
22 ~~course of such examinations will be the responsibility of the~~  
23 ~~title insurance company.~~ In the event that a present or former

1 registered agent or its successor refuses or is unable to  
2 cooperate with a title insurance company in furnishing the  
3 records requested by the Secretary or his or her authorized  
4 agent, then the Secretary or his or her authorized agent shall  
5 have the power and authority to obtain those records directly  
6 from the registered agent.

7 (Source: P.A. 94-893, eff. 6-20-06.)

8 (215 ILCS 155/14) (from Ch. 73, par. 1414)

9 Sec. 14. Fees.

10 (a) Every title insurance company and every independent  
11 escrowee subject to this Act shall pay the following fees:

12 (1) for filing the original application for a  
13 certificate of authority and receiving the deposit  
14 required under this Act, \$500;

15 (2) for the certificate of authority, \$10;

16 (3) for every copy of a paper filed in the Department  
17 under this Act, \$1 per folio;

18 (4) for affixing the seal of the Department and  
19 certifying a copy, \$2; and

20 (5) for filing the annual statement, \$50.

21 (b) Each title insurance company shall remit pay, for all  
22 of its title insurance agents subject to this Act for filing an  
23 annual registration of its agents, an amount collected from the  
24 consumer ~~an amount~~ equal to \$3 for each policy issued by all of  
25 its agents in the immediately preceding calendar year.

1 (Source: P.A. 93-32, eff. 7-1-03; 94-893, eff. 6-20-06.)

2 (215 ILCS 155/16) (from Ch. 73, par. 1416)

3 Sec. 16. Title insurance agents.

4 (a) No person, firm, partnership, association, corporation  
5 or other legal entity shall act as or hold itself out to be a  
6 title insurance agent unless duly registered by a title  
7 insurance company with the Secretary.

8 (b) Each application for registration shall be made on a  
9 form specified by the Secretary and prepared ~~in duplicate~~ by  
10 each title insurance company which the agent represents. The  
11 title insurance company shall retain the copy of the  
12 application and forward ~~the original~~ a copy to the Secretary  
13 ~~with the appropriate fee.~~

14 (c) Every applicant for registration, except a firm,  
15 partnership, association, limited liability company, or  
16 corporation, must be 18 years or more of age. Included in every  
17 application for registration of a title insurance agent,  
18 including a firm, partnership, association, limited liability  
19 company, or corporation, shall be an affidavit of the applicant  
20 title insurance agent, signed and notarized in front of a  
21 notary public, affirming that the applicant and every owner,  
22 officer, director, principal, member, or manager of the  
23 applicant has never been convicted or pled guilty to any felony  
24 or misdemeanor involving a crime of theft or dishonesty or  
25 otherwise accurately disclosing any such felony or misdemeanor

1 involving a crime of theft or dishonesty. No person who has had  
2 a conviction or pled guilty to any felony or misdemeanor  
3 involving theft or dishonesty may be registered by a title  
4 insurance company without a written notification to the  
5 Secretary disclosing the conviction or plea, and no such person  
6 may serve as an owner, officer, director, principal, or manager  
7 of any registered title insurance agent without the written  
8 permission of the Secretary.

9 (d) Registration shall be made annually by a filing with  
10 the Secretary; supplemental registrations for new title  
11 insurance agents to be added between annual filings shall be  
12 made from time to time in the manner provided by the Secretary;  
13 registrations shall remain in effect unless revoked or  
14 suspended by the Secretary or voluntarily withdrawn by the  
15 registrant or the title insurance company.

16 (e) Funds deposited in connection with any escrows,  
17 settlements, or closings shall be deposited in a separate  
18 fiduciary trust account or accounts in a bank or other  
19 financial institution insured by an agency of the federal  
20 government unless the instructions provide otherwise. The  
21 funds shall be the property of the person or persons entitled  
22 thereto under the provisions of the escrow, settlement, or  
23 closing and shall be segregated by escrow, settlement, or  
24 closing in the records of the escrow agent. The funds shall not  
25 be subject to any debts of the escrowee and shall be used only  
26 in accordance with the terms of the individual escrow,

1 settlement, or closing under which the funds were accepted.

2 Interest received on funds deposited with the escrow agent  
3 in connection with any escrow, settlement, or closing shall be  
4 paid to the depositing party unless the instructions provide  
5 otherwise.

6 The escrow agent shall maintain separate records of all  
7 receipts and disbursements of escrow, settlement, or closing  
8 funds.

9 The escrow agent shall comply with any rules adopted by the  
10 Secretary pertaining to escrow, settlement, or closing  
11 transactions.

12 (f) A title insurance agent shall not act as an escrow  
13 agent in a nonresidential real property transaction where the  
14 amount of settlement funds on deposit with the escrow agent is  
15 less than \$2,000,000 or in a residential real property  
16 transaction unless the title insurance agent, title insurance  
17 company, or another authorized title insurance agent has  
18 committed for the issuance of title insurance in that  
19 transaction and the title insurance agent is authorized to act  
20 as an escrow agent on behalf of the title insurance company for  
21 which the commitment for title insurance has been issued. The  
22 authorization under the preceding sentence shall be given  
23 either (1) by an agency contract with the title insurance  
24 company which contract, in compliance with the requirements set  
25 forth in subsection (g) of this Section, authorizes the title  
26 insurance agent to act as an escrow agent on behalf of the

1 title insurance company or (2) by a closing protection letter  
2 in compliance with the requirements set forth in Section 16.1  
3 of this Act, issued by the title insurance company to the  
4 seller, buyer, borrower, and lender. A closing protection  
5 letter shall not be issued by a title insurance agent. The  
6 provisions of this subsection (f) shall not apply to the  
7 authority of a title insurance agent to act as an escrow agent  
8 under subsection (g) of Section 17 of this Act.

9 (g) If an agency contract between the title insurance  
10 company and the title insurance agent is the source of the  
11 authority under subsection (f) of this Section for a title  
12 insurance agent to act as escrow agent for a real property  
13 transaction, then the agency contract shall provide for no less  
14 protection from the title insurance company to all parties to  
15 the real property transaction than the title insurance company  
16 would have provided to those parties had the title insurance  
17 company issued a closing protection letter in conformity with  
18 Section 16.1 of this Act.

19 (h) A title insurance company shall be liable for the acts  
20 or omissions of its title insurance agent as an escrow agent if  
21 the title insurance company has authorized the title insurance  
22 agent under subsections (f) and (g) of this Section 16 and only  
23 to the extent of the liability undertaken by the title  
24 insurance company in the agency agreement or closing protection  
25 letter. The liability, if any, of the title insurance agent to  
26 the title insurance company for acts and omissions of the title

1 insurance agent as an escrow agent shall not be limited or  
2 otherwise modified because the title insurance company has  
3 provided closing protection to a party or parties to a real  
4 property transaction escrow, settlement, or closing. The  
5 escrow agent shall not charge a fee for protection provided by  
6 a title insurance company to parties to real property  
7 transactions under subsections (f) and (g) of this Section 16  
8 and Section 16.1, but shall collect from the parties the fee  
9 charged by the title insurance company and shall promptly remit  
10 the fee to the title insurance company. The title insurance  
11 company may charge the parties a reasonable fee for protection  
12 provided pursuant to subsections (f) and (g) of this Section 16  
13 and Section 16.1 and shall not pay any portion of the fee to  
14 the escrow agent. The payment of any portion of the fee to the  
15 escrow agent by the title insurance company, shall be deemed a  
16 prohibited inducement or compensation in violation of Section  
17 24 of this Act.

18 (i) The Secretary shall adopt and amend such rules as may  
19 be required for the proper administration and enforcement of  
20 this Section 16 consistent with the federal Real Estate  
21 Settlement Procedures Act and Section 24 of this Act.

22 (Source: P.A. 98-398, eff. 1-1-14; 98-832, eff. 1-1-15.)